

STATE OF NEW HAMPSHIRE

INTER-DEPARTMENT COMMUNICATION

FROM Paul Currier, Watershed Management
Bureau Administrator

Date October 8, 2010

SUBJECT Revised language for HB 1305 language
related to changes in RSA 485-A

Offices
Dept of Environmental Services
Water Division

TO Water Quality Standards Advisory
Committee

On September 9, 2010, the Water Quality Standards Advisory Committee (WQSAC) approved proposed language for HB 1305. This language was developed by working groups of the WQSAC at the request of the House Resources, Recreation, and Development (RR&D) Committee.

On September 21st, the RR&D subcommittee responsible for HB 1305 met to discuss the proposed language. The subcommittee made one small change to the session law text (replaced “may” with “shall” in section I(c)) and then voted to recommend the language to the full RR&D committee. The subcommittee also directed DES staff work with RR&D staff to further refine the language as necessary.

Subsequent to the RR&D subcommittee meeting, DES has worked with RR&D staff to resolve concerns about unintended consequences from changing the definition of “surface waters of the state” and to improve clarity. The solution was to not change the existing definition of “surface waters of the state” but to add clarifying language regarding the scope of the water quality standards to the new definition of “water quality standards”. This change also required that the term “surface waters of the state and waters of the United States” or similar language be added to several key locations in RSA 485-A:2-3,8-13. DES believes that this new proposal is effectively the same as the proposal approved by the WQSAC and the RR&D subcommittee without the potential for unintended consequences or confusion.

In addition, DES is recommending two changes to the session law text regarding review of the state water quality standards. The first is to change the word “do” to “conduct” in the second sentence of the first paragraph. The second is to extend the deadline for the report to the General Court to September 30, 2013. The review of the water quality standards will be a challenging task and more time is likely to be needed to complete this task.

The proposed language regarding antidegradation (RSA 485-A:9-a) has not been changed from the WQSAC and RR&D recommendations.

Relevant sections of RSA 485-A and the session law text with the changes noted are attached. Please contact me at (603) 271-3289 if you have any questions.

Proposed Changes to RSA 485-A:2,3,8,9,10,11,12,13 for HB 1305

Deleted text shown with ~~striketrough~~.

Added text shown in ***bold italics***.

Changes from text approved by WQSAC and/or RR&D subcommittee shown in **grey highlight**.

Section 485-A:2

485-A:2 Definitions. –

I. ""Developed waterfront" property means any parcel of land upon which stands a structure suitable for either seasonal or year-round human occupancy, where such parcel of land is contiguous to or within 200 feet of the reference line, as defined in RSA 483-B:4, XVII, of:

- (a) A fresh water body, as defined in RSA 483-B:4, XVI(a);
- (b) Coastal waters, as defined in RSA 483-B:4, XVI(b); or
- (c) A river, as defined in RSA 483-B:4, XVI(c).

I-a. ""Certificate" means a certificate of competency issued by the department stating that the operator has met the particular requirements established by the department for certification at each level of operation.

I-b. ""Certification committee" means those persons designated by the commissioner, and those persons elected by the New Hampshire Water Pollution Control Association to serve as the review committee for certification of wastewater treatment plant operators.

I-c. ""Commissioner" means the commissioner of the department of environmental services.

II. ""Development plan" means the final map, drawing, plat or chart on which the subdivider presents his plan of subdivision to the department of environmental services for approval of planned or proposed sewage or waste disposal systems.

III. ""Department" means the department of environmental services.

III-a. ""Encroachment waiver" means any waiver of the rules adopted in accordance with this chapter which, if granted, would affect the ability of an owner of abutting property to fully utilize his property.

IV. ""Failure" means the condition produced when a subsurface sewage or waste disposal system does not properly contain or treat sewage or causes the discharge of sewage on the ground surface or directly into surface waters, or the effluent disposal area is located in the seasonal high groundwater table.

V. ""Groundwaters" shall mean all areas below the top of the water table, including aquifers, wells and other sources of groundwater.

VI. ""Industrial waste" means any liquid, gaseous or solid waste substance resulting from any process of industry, manufacturing trade or business or from development of any natural resources.

VII. ""Lot" means a part of a subdivision or a parcel of land which can be used as a building site or intended to be used for building purposes, whether immediate or future.

VII-a. ""Operator" means:

- (a) The individual who has full responsibility for the daily operation of a wastewater treatment plant or a pollution control facility;
- (b) The individual normally responsible for the operations shift; or
- (c) Individuals who perform important operating functions.

VIII. ""Other wastes" means garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, ashes, offal, oil, tar, chemicals and other substances other than sewage or industrial wastes, and any other substance harmful to human, animal, fish or aquatic life.

IX. ""Person" means any municipality, governmental subdivision, public or private corporation, individual, partnership, or other entity.

IX-a. ""Septage" means material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, excluding sewage sludge from public treatment works and industrial waste and any other sludge.

X. ""Sewage" means the water-carried waste products from buildings, public or private, together with such groundwater infiltration and surface water as may be present.

XI. ""Sewage disposal system" means any private sewage disposal or treatment system, other than a municipally owned and operated system.

XI-a. ""Sludge" means the solid or semisolid material produced by water and wastewater treatment processes, excluding domestic septage; provided, however, sludge which is disposed of at solid waste facilities permitted by the department shall be considered solid waste and regulated under RSA 149-M.

XII. ""Subdivider" means the legal owner or his authorized agent of a tract or parcel of land being subdivided.

XIII. ""Subdivision" means the division of a tract or parcel of land into 2 or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale, rent, lease, building development, or any other reason; provided, however, that sale or other conveyance which involves merely an exchange of land among 2 or more owners and which does not increase the number of owners, and on which no sewage disposal system is to be constructed shall not be deemed a subdivision for the purposes of this chapter. Without limiting the generality of the foregoing, subdivision shall include re-subdivision, and, in the case of a lot, tract or parcel previously rented or leased, the sale, condominium conveyance, or other conveyance thereof; provided however that a re-subdivision of lots in previously approved subdivisions, where lot lines are relocated to conform to necessary changes in the plans because of errors in a survey or new street, access or siting requirements, or errors in building locations, and where the lot sizes are not substantially altered shall not be deemed a subdivision for the purposes of this chapter; and provided further that a re-subdivision in which previously approved lots are grouped together to form larger lots shall not be deemed a subdivision for the purposes of this chapter. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this chapter.

XIV. ""Surface waters of the state" means perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, including all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial.

XV. ""Tract or parcel of land" means an area of land, whether surveyed or not surveyed.

XVI. ""Waste" means industrial waste and other wastes.

XVI-a. ""Wastewater treatment plant" means the treatment facility or group of treatment devices which treats domestic or combined domestic and industrial wastewater through alteration, alone or in combination, of the physical, chemical, or bacteriological quality of the wastewater and which dewateres and handles sludge removed from the wastewater.

XVII. ""Bypass" means the intentional diversion of waste streams from any portion of the wastewater facilities.

XVIII. ""Upset" means an exceptional incident in which there is unintentional and temporary

noncompliance with permit effluent limitations because of factors beyond the reasonable control of the permittee.

XIX. ""Wastewater facilities" means the structures, equipment, and processes required to collect, convey, and treat domestic and industrial wastes, and dispose of the effluent and sludge.

XIX-a. "Water quality standards" means the combination of designated uses, criteria to support the uses, and antidegradation provisions, whether specified in this chapter or in rules adopted pursuant to this chapter, that apply to surface waters of the state and waters of the United States under the federal Clean Water Act.

XIX-b. "Waters of the United States" means waters of the United States as defined under the federal Clean Water Act.

XX. ""Bedroom" means a room furnished with a bed and intended primarily for sleeping, unless otherwise specified by local regulations.

XXI. ""Innovative/alternative waste treatment" means treatment which differs from standardized and conventional practice, offers an advantage over such practice in a proposed application and satisfies the pollution abatement and treatment requirements for sewerage and sewage or waste treatment systems in such application.

XXII. ""Biosolids" means any sludge derived from a sewage wastewater treatment facility that meets the standards for beneficial reuse specified by the department.

XXIII. ""Short paper fiber" means any sludge derived from a pulp or papermill wastewater treatment facility that meets the standards for beneficial reuse specified by the department.

Source. 1989, 339:1. 1990, 197:1-3; 248:1; 252:9, 10. 1993, 57:1; 172:1. 1996, 219:1; 228:74-76, 105, 106, 108. 1998, 102:2, 3. 2000, 76:3, eff. June 20, 2000; 121:1, eff. July 7, 2000. 2008, 349:2, 3, eff. Jan. 1, 2009.

Section 485-A:3

485-A:3 Policies. – It is hereby declared, as a matter of legislative intent, that the department shall, in the administration and enforcement of this chapter, strive to provide that all sources of pollution within the state shall be abated within such times and to such degrees as shall be required to satisfy the provisions of state law or applicable federal law, whichever is more stringent. To the extent not inconsistent with the foregoing nor the aims of any joint state-federal permit program that may from time to time be agreed upon and in force pursuant to this chapter and applicable federal law, the department shall adhere to the following policies:

I. Insofar as practicable, the initial objective of the control program will be to obtain the installation of primary treatment (with adequate disinfection where sewage discharges are involved) for all discharges of sewage and industrial wastes.

II. The second objective will be to require the installation of secondary treatment whenever such additional treatment is necessary to protect the uses assigned to the particular **stream** classification.

III. The third objective, after all **stream** classification requirements throughout the state have been satisfied, will be to continue the program of pollution abatement by installing other forms of treatment desirable to maintain all surface waters of the state in as clean a condition as possible, consistent with available assistance funds and technological developments.

IV. Until such time as appropriate methodology and reasonable levels of financial assistance are made available, municipalities with combined sewer systems shall not be required to provide

treatment facilities with capacity greater than that necessary to handle anticipated peak dry weather flows.

V. A further objective will be to advance the development and application of innovative/alternative waste treatment systems with guidelines, procedures, pilot projects, demonstration projects, community projects or in any other manner the department may elect.

Source. 1989, 339:1. 1993, 172:2. 1996, 228:106, eff. July 1, 1996.

Classification of Waters

Section 485-A:8

485-A:8 Standards for Classification of Surface Waters of the State. – It shall be the overall goal that all surface waters *of the state and waters of the United States* attain and maintain specified *standards of* water quality *standards* to achieve the purposes of the legislative classification. For purposes of classification there shall be 2 classes or grades of surface waters *of the state and waters of the United States* as follows:

I. Class A waters shall be of the highest quality and shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 47 Escherichia coli per 100 milliliters, or greater than 153 Escherichia coli per 100 milliliters in any one sample; and for designated beach areas shall contain not more than a geometric mean based on at least 3 samples obtained over a 60-day period of 47 Escherichia coli per 100 milliliters, or 88 Escherichia coli per 100 milliliters in any one sample; unless naturally occurring. There shall be no discharge of any sewage or wastes into waters of this classification. The waters of this classification shall be considered as being potentially acceptable for water supply uses after adequate treatment.

II. Class B waters shall be of the second highest quality and shall have no objectionable physical characteristics, shall contain a dissolved oxygen content of at least 75 percent of saturation, and shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 126 Escherichia coli per 100 milliliters, or greater than 406 Escherichia coli per 100 milliliters in any one sample; and for designated beach areas shall contain not more than a geometric mean based on at least 3 samples obtained over a 60-day period of 47 Escherichia coli per 100 milliliters, or 88 Escherichia coli per 100 milliliters in any one sample; unless naturally occurring. There shall be no disposal of sewage or waste into said waters except those which have received adequate treatment to prevent the lowering of the biological, physical, chemical or bacteriological characteristics below those given above, nor shall such disposal of sewage or waste be inimical to aquatic life or to the maintenance of aquatic life in said receiving waters. The pH range for said waters shall be 6.5 to 8.0 except when due to natural causes. Any stream temperature increase associated with the discharge of treated sewage, waste or cooling water, water diversions, or releases shall not be such as to appreciably interfere with the uses assigned to this class. The waters of this classification shall be considered as being acceptable for fishing, swimming and other recreational purposes and, after adequate treatment, for use as water supplies. Where it is demonstrated to the satisfaction of the department that the class B criteria cannot reasonably be met in certain surface waters at all times as a result of

combined sewer overflow events, temporary partial use areas shall be established by rules adopted under RSA 485-A:6, XI-c, which meet, as a minimum, the standards specified in paragraph III.

III. The waters in temporary partial use areas established under paragraph II shall be free from slick, odors, turbidity, sludge deposits, and surface-floating solids of unreasonable kind or quantity, shall contain not less than 5 parts per million of dissolved oxygen; shall have a hydrogen ion concentration within the range of pH 6.0 to 9.0 except when due to natural causes; and shall be free from chemicals and other materials and conditions inimical to aquatic life or the maintenance of aquatic life. These criteria shall apply during combined sewer overflow discharges and up to 3 days following cessation of said discharge. At all other times the standards and uses specified in paragraph II shall apply.

IV. Notwithstanding anything contained in this chapter, the department in submitting classifications relating to interstate waters to the New England Interstate Water Pollution Control Commission for review and approval, as provided for under the terms of Article V of the compact whereby the interstate commission was created by RSA 484, shall submit such classifications in accordance with the standards of water quality as currently adopted by said interstate water pollution control commission provided, however, that the standards for any classification thus submitted for review and approval shall not be less than, nor exceed the standards of the classification duly adopted by the General Court as provided for in RSA 485-A:9 or 10.

V. Tidal waters utilized for swimming purposes shall contain not more than either a geometric mean based on at least 3 samples obtained over a 60-day period of 35 enterococci per 100 milliliters, or 104 enterococci per 100 milliliters in any one sample, unless naturally occurring. Those tidal waters used for growing or taking of shellfish for human consumption shall, in addition to the foregoing requirements, be in accordance with the criteria recommended under the National Shellfish Program Manual of Operation, United States Department of Food and Drug Administration.

VI. Notwithstanding anything contained in this chapter, the commissioner shall have the authority to adopt such ~~stream~~ classification criteria as may be issued from time to time by the federal Environmental Protection Agency or its successor agency insofar as said criteria may relate to the water uses specified in RSA 485-A:8, I and II, provided, however, that the criteria thus issued shall not result in standards that are less than nor exceed the standards of the classification duly enacted by the general court as provided for in RSA 485-A:9 or 485-A:10.

VII. All tests and sampling for the purposes of examination of waters shall be performed and carried out in a reasonable manner and whenever practicable, in accordance with the commonly accepted scientific method as selected by the department. The waters in each classification shall satisfy all the provisions of all lower classifications. The minimum treatment for the lowest classification shall be as follows:

(a) For sewage, secondary treatment and disinfection as necessary to comply with water quality standards.

(b) For industrial wastes and combined sewer overflows, such treatment as the department shall determine. Appeal from any such determination shall be in the manner provided for in RSA 21-O:14.

VIII. In prescribing minimum treatment provisions for thermal wastes discharged to interstate waters, the department shall adhere to the water quality requirements and recommendations of the New Hampshire fish and game department, the New England Interstate Water Pollution

Control Commission, or the United States Environmental Protection Agency, whichever requirements and recommendations provide the most effective level of thermal pollution control.

IX. Subject to the provisions of RSA 485-A:13, I(a), the fish and game department may use rotenone or similar compounds in the conduct of its program to reclaim the public waters of the state for game fishing.

Source. 1989, 339:1. 1991, 371:3-5. 1996, 228:77, 106, 110. 1998, 63:1, eff. July 11, 1998.

Section 485-A:9

485-A:9 Classification Procedure. – The department shall follow the procedures provided in this section and recommend to the legislature a classification for all **surface waters of the state and waters of the United States** ~~streams, lakes, ponds, and tidal waters or section of such water.~~

I. A notice setting forth the contemplated classification of any **surface waters of the state and waters of the United States** ~~stream, lake, pond, tidal water or section of such water~~, shall be published for 3 successive weeks in a newspaper circulated within the county or counties in which the **water body surface water** in question is situated. The last notice shall be published at least 7 days before the hearing date. The notice shall stipulate the time and place where a public hearing on the contemplated classification shall be held.

II. A public hearing shall be conducted by the department, at which hearing all interested parties shall be heard relative to their views on classification of the area or areas in question.

III. Following the hearings the department shall review the pertinent evidence and data presented.

IV. After such hearing and review of evidence the department shall determine which classification is for the best interest of the public giving consideration to the health, industrial, economic, geographical and social factors involved.

Source. 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

New Section; Antidegradation Requirements. Amend RSA 485-A by inserting after section 9 the following new section:

485-A:9-a Antidegradation Requirements. The department shall adopt rules that implement the antidegradation provisions of the federal Clean Water Act as specified in 40 CFR section 131.12 or any successor regulation promulgated by the United States Environmental Protection Agency.

Section 485-A:10

485-A:10 Reclassification Procedure. – After adoption of a classification for any surface water **of the state or water of the United States** or section of such water by the legislature, the department may, by its own motion, or upon the petition of not less than 100 persons, legal

inhabitants of the county or counties in which the ~~surface water~~ **water body** in question is situated, reinvestigate the conditions of pollution in said ~~surface water~~ **water body** or section of such water by following the procedure above outlined, and may at any time make recommendation to the legislature for reclassification.

Source. 1989, 339:1. 1996, 228:106, eff. July 1, 1996.

Section 485-A:11

485-A:11 Public Waters Classified. – All lakes and ponds defined as public waters of the state by RSA 271:20 shall be classified by the passage of this section as not less than Class B, as set forth in RSA 485-A:8 relating to standards for classification ~~of surface waters of the state~~.

Source. 1989, 339:1. 1999, 232:2, eff. Jan. 1, 2000.

Enforcement

Section 485-A:12

485-A:12 Enforcement of Classification. –

I. After adoption of a given classification for a ~~surface water of the state or water of the United States stream, lake, pond, tidal water, or section of such water~~, the department shall enforce such classification by appropriate action in the courts of the state, and it shall be unlawful for any person or persons to dispose of any sewage, industrial, or other wastes, either alone or in conjunction with any other person or persons, in such a manner as will lower the quality of the waters *in question* ~~of the stream, lake, pond, tidal water, or section of such water~~ below the minimum requirements of the adopted classification. If the department shall set a time limit for abatement of pollution under paragraph II, and it becomes apparent at any time during the compliance period that full compliance with the adopted classification will not be attained by the end of such period due to the failure of any person to take action reasonably calculated to secure abatement of the pollution within the time specified, the department shall notify such person or persons in writing. If such person or persons shall fail or neglect to take appropriate steps to comply with the classification requirements within a period of 30 days after such notice, the department shall seek appropriate action in the courts of the state.

II. If, after adoption of a classification of any ~~surface water of the state or water of the United States stream, lake, pond, or tidal water, or section of such water~~, including those classified by RSA 485-A:11, it is found that there is a source or sources of pollution which lower the quality of the waters in question below the minimum requirements of the classification so established, the person or persons responsible for the discharging of such pollution shall be required to abate such pollution within a time to be fixed by the department. If such pollution is of municipal or industrial origin, the time limit set by the department for such abatement shall be not less than 2 years nor more than 5 years. For good cause shown, the department may from time to time extend any time limit established under this paragraph. Any determination by the department under this paragraph shall be subject to appeal as provided for in RSA 485-A:19.

III. No activity, including construction and operation of facilities, that requires certification under section 401 of the Clean Water Act and that may result in a discharge, as that term is

applied under section 401 of the Clean Water Act, to surface waters of the state **or to waters of the United States** may commence unless the department certifies that any such discharge complies with the **state surface** water quality standards applicable to the classification for the receiving **surface** water body. The department shall provide its response to a request for certification to the federal agency or authority responsible for issuing the license, permit, or registration that requires the certification under section 401 of the Clean Water Act. Certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide assurance that the proposed discharge complies with applicable **surface** water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

IV. No activity that involves surface water withdrawal or diversion of surface water that requires registration under RSA 488:3, that does not otherwise require the certification required under paragraph III, and which was not in active operation as of the effective date of this paragraph, may commence unless the department certifies that the surface water withdrawal or diversion of surface water complies with **state surface** water quality standards applicable to the classification for the surface water body. The certification shall include any conditions on, modifications to, or monitoring of the proposed activity necessary to provide reasonable assurance that the proposed activity complies with applicable **surface** water quality standards. The department may enforce compliance with any such conditions, modifications, or monitoring requirements as provided in RSA 485-A:22.

Source. 1989, 339:1. 1996, 228:106, eff. July 1, 1996. 2008, 337:2, eff. Sept. 5, 2008. 2009, 26:1, eff. July 7, 2009.

Section 485-A:13

485-A:13 Water Discharge Permits. –

I. (a) It shall be unlawful for any person or persons to discharge or dispose of any sewage or waste to the surface water or groundwater of the state without first obtaining a written permit from the department of environmental services. Applications for permits shall be made upon forms prescribed by the department of environmental services and shall contain such relevant information as the department of environmental services may require. The department of environmental services shall include in such permits effluent limitations, which may be based upon economic and technological factors, upon the classification enacted by the legislature, upon the projected best use of the surface water downstream or upon the requirements of the Federal Water Pollution Control Act as amended from time to time, and all regulations, guidelines and standards promulgated thereunder, whichever provides the most effective means to abate pollution. The department of environmental services may also prescribe such other reasonable conditions as may be necessary or desirable in order to fulfill the purpose of this chapter or applicable federal law. Such permits may contain, in the case of sources not in compliance with such effluent limitations at the time the permit is issued, compliance schedules, including interim requirements necessary or desirable in order to fulfill the purposes or requirements of this chapter, and any such compliance schedules may be imposed without regard to the time limits for abatement of pollution referred to in RSA 485-A:12, II and shall be consistent with the purposes and requirements of applicable federal law. The department of environmental services may prescribe a monitoring program to be performed by the applicant with periodic reports to

the department of environmental services, including, where appropriate in terms of the nature of the effluent, continuous monitoring. Permits shall be issued for a fixed term, not to exceed 5 years. The department of environmental services may revise, modify or suspend in whole or in part or terminate any permit, following hearing, upon a finding that just cause exists for such action. Further, whenever in its judgment the purposes of this chapter will be best served, the department of environmental services may require as a condition to the granting of such permits that either the ownership and operation of the collection and treatment facilities involved be vested in the municipality or any subdivision thereof in which the system is located, if said municipality by legal action agrees thereto, or such other reasonable conditions as will ensure continuous and continuing operation and maintenance of the facilities. No permit shall be granted to utilize the entire assets of the ~~surface~~ water ~~body~~, or in any other case in which the department of environmental services determines that the grant of a permit would be inconsistent with the purposes of this chapter. Any determination by the department of environmental services under this paragraph shall be subject to appeal as provided for in RSA 485-A:19.

(b) Notwithstanding any other provision of law, no permit to discharge sewage or waste shall be issued authorizing any of the following discharges:

(1) The discharge of any radiological, chemical or biological warfare agent or high level radioactive waste.

(2) Any discharge into navigable waters which the secretary of the army of the United States acting through the chief of engineers determines would substantially impair anchorage and navigation.

(3) Any discharge to which the regional administrator of the United States Environmental Protection Agency, or his successor in jurisdiction, has objected in writing pursuant to any right to object each provided such official in section 402(d) of the Federal Water Pollution Control Act, as amended from time to time; provided, that this subparagraph and subparagraph (2) above shall not preclude the department of environmental services or any other person from availing itself of the judicial review of any such objection, or any determination by the secretary of the army, available under applicable federal law.

(4) Any discharge from a point source which is in conflict with a plan or amendment to such plan approved pursuant to section 208(b) of the Federal Water Pollution Control Act, as amended from time to time.

(c) Any person responsible for a bypass or upset at a wastewater facility shall give immediate notice of the bypass or upset to all public or privately owned water systems drawing water from the same receiving water and located within 20 miles downstream of the point of discharge. The permittee shall maintain a list of persons, and their telephone numbers, who are to be notified immediately by telephone. In addition, written notification, which shall be postmarked within 3 days of the bypass or upset, shall be sent to such persons.

II. On application of the department of environmental services, the superior court or any justice of such court, in term time, or in vacation may enjoin any act in violation of any lawful order of the department of environmental services.

III. In the interim between the effective date of classification legislation hereafter enacted affecting any surface water of the state or section of such water, and the time limit for abatement of pollution set thereafter either by the department of environmental services under RSA 485-A:12, II or by the legislature, it shall be unlawful for person or persons to dispose of any sewage or waste into said surface water of the state in excess of the maximum quantity or of a different character, than that being disposed of during the period of one year prior to the effective date of

such legislative classification without first obtaining written permission from the department of environmental services.

Source. 1989, 339:1. 1990, 248:3. 1996, 228:108, eff. July 1, 1996.

Proposed Session Law Text for HB 1305

Deleted text shown with ~~strikethrough~~.

Added text shown in ***bold italics***.

Changes from text approved by WQSAC and/or RR&D subcommittee shown in **grey highlight**.

Findings. The general court finds that administration of water quality standards and the classification of waters, including assignment of designated uses for waters of the state, establishment of narrative and numeric criteria that support those uses, and an antidegradation policy, are important to the management and protection of New Hampshire's waters. It is in the interests of the state to ~~do~~ **conduct** a comprehensive review of water quality standards, including the statutory process for classification of waters under RSA 485-A:8-12, and the related Surface Water Quality Regulations (Env-Wq 1700) adopted by the Department of Environmental Services.

Report required; Review of water quality standards.

I. (a) The commissioner of the department of environmental services shall conduct a comprehensive review of water quality standards and shall present a report, together with any proposed legislation, to the governor, the president of the senate, and the speaker of the house not later than September 30, ~~2012~~ **2013**.

(b) The report shall:

- (1) Include a brief history of water quality standards in New Hampshire, including the classification history and current classifications for state waters.
- (2) Describe the current water quality standards, including statutes, rules, and administrative practices of the department.
- (3) Describe the state responsibilities and requirements for water quality standards under the federal Clean Water Act, including a report of consultations with EPA Region 1.
- (4) Summarize representative water quality standards of other states.
- (5) Include recommendations for proposed legislation to make water quality standards work better as a tool for managing and protecting New Hampshire's waters, and to better fulfill the state responsibilities under the Clean Water Act.

(c) The commissioner shall solicit the input and advice of diverse stakeholders in preparing the report, including consultations with the department's ad hoc Water Quality Standards Advisory Committee.